

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

**MALLORY SMITH, Individually and on
Behalf of All Others Similarly Situated**

PLAINTIFF

vs.

No. 4:18-cv-797-KGB

**OM PURSHANTAM, LLC,
and TANVI DESAI**

DEFENDANTS

PLAINTIFF'S MOTION FOR COSTS AND ATTORNEYS' FEES

COMES NOW Plaintiff Mallory Smith, by and through her attorney Josh Sanford of Sanford Law Firm, PLLC, and for her Motion for Costs and Attorneys' Fees, states as follows:

1. Plaintiff filed this case on October 29, 2018, pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq*, and the Arkansas Minimum Wage Act, Ark. Code Ann. § 11-4-201, *et seq*, to recover unpaid wages.

2. The Parties have reached a settlement agreement in principle, which will be reduced to writing, that resolves all alleged damages that Plaintiff claims in the Amended Complaint, including but not limited to alleged unpaid overtime, liquidated and consequential damages, and lost wages, in exchange for a dismissal with prejudice and release of all claims, but not including the amount of attorney's fees and costs, which is a reserved issue. Joint Notice of Settlement ¶ 1. The settlement amount to Plaintiff is \$2,500.00.

3. An essential element of the settlement agreement is that Defendants will pay Plaintiff's reasonable attorney fees and costs, the amount of which is a reserved

issue. *Id.* at ¶ 3. The Parties agreed that the amount of fees and costs to be paid by Defendants will be resolved either by further separate negotiations or by a fee petition submitted to this Court. *Id.*

4. The FLSA requires that in an action for unpaid minimum wages under the Act, the Court “shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.” 29 U.S.C. § 216(b).

5. Similarly, the AMWA provides that a court may award costs and reasonable attorneys’ fees against “[a]ny employer who pays any employee less than the minimum wages, including overtime compensation . . . to which the employee is entitled under or by virtue of [the AMWA].” Ark. Code Ann. § 11-4-218(a).

6. As shown on the Billing Spreadsheet attached as Exhibit 1, Plaintiffs expect to have incurred \$16,530.75 in attorneys’ fees through May 8, 2020, to successfully litigate the claims. Plaintiff summarized, categorized and sorted billing by attorney on page 1 and category of work on page 2 for the Court’s convenience in reviewing this request.

7. Further, Plaintiff’s counsel reviewed and edited the billing for charges that might have been considered as excessive, redundant, or otherwise unnecessary or appropriate for reduction. Through the exercise of billing judgment, Plaintiff’s counsel identified \$5,255.50 in fees that Plaintiff has chosen to exclude from the total amount requested in this fee petition.

8. After subtracting the fees described above, Plaintiff requests an award of \$11,275.25 in attorneys’ fees, a reduction from the actual billing amount of 40.69%.

9. As shown in detail on Plaintiff's Costs Invoice (Exhibit 5), Plaintiff also incurred \$491.00 in costs other than attorneys' fees during litigation. Plaintiff is entitled to these costs under the FLSA, 29 U.S.C. § 216(b), and under Rule 54(d).

10. Accordingly, Plaintiff requests a total award of costs and attorneys' fees in the amount of \$11,766.25.

11. In support of this Motion, Plaintiff attaches and incorporates the following exhibits:

- Ex. 1 Invoice and Reduction Tables;
 - P. 1: showing summary of billing and reductions by attorney
 - P. 2: showing summary of billing and reductions by category
 - P. 3 et seq.: showing all line-by-line billing and reductions by date
- Ex. 2 Costs Invoice;
- Ex. 3 Declaration of Josh Sanford;

12. This Motion is supported by a contemporaneous Memorandum Brief.

WHEREFORE, Plaintiff respectfully requests that her Motion for Costs and Attorneys' Fees be granted in its entirety, that the Court award Plaintiff fees and costs in the amount of \$11,766.25 and for all other just and equitable relief to which Plaintiff may be entitled.

Respectfully submitted,

PLAINTIFF MALLORY SMITH

SANFORD LAW FIRM, PLLC
One Financial Center
650 South Shackleford Road, Suite 411
Little Rock, Arkansas 72211
Telephone: (501) 221-0088
Facsimile: (888) 787-2040

Josh Sanford
Ark. Bar No. 2001037
josh@sanfordlawfirm.com